

Message Text

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ACTION L-03

INFO OCT-01 EA-09 ISO-00 VA-01 ST-01 OPR-02 A-01 USIA-15

AID-05 EUR-12 PM-04 NSC-05 SP-02 SS-15 H-02 CIAE-00

INR-07 NSAE-00 /085 W

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R 170915Z OCT 75

FM AMEMBASSY MANILA

TO SECSTATE WASHDC 8651

CSAF (JACI)

NAVY JAG, WASHDC

INFO SECDEF

CINCPAC

CINCPACAF

CINCPACFLT

CINCPACREPPHIL

13TH AF, CLARK AB

NLSO SUBIC

3CSG, CLARK AB

DIA (AH-6) WASHDC

UNCLAS MANILA 14708

PASS TO VETERANS ADMIN AND L

E.O. 11652: NA

TAGS: PGOV, RP

SUBJECT: COMPULSORY NO-FAULT MOTOR VEHICLE INSURANCE AND USG
VEHICLES IN PHILIPPINES

SUMMARY: GOP HAS PASSED NEW COMPULSORY NO-FAULT INSURANCE
LAW. LAW APPLICABLE TO ALL VEHICLES INCLUDING GOP OFFICIAL
VEHICLES. EMB PLANS TO DISCUSS APPLICATION OF LAW TO USG
MILITARY AND CIVILIAN AGENCY VEHICLES WITH APPROPRIATE GOP
OFFICIALS; HOWEVER, FIRST REQUEST INFORMATION ON WHETHER
PROBLEM HAS ARISEN IN OTHER COUNTRIES AND, IF SO, MANNER
IN WHICH IT WAS RESOLVED. END SUMMARY

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1. GOP HAS PROMULGATED NEW INSURANCE CODE WHICH CONTAINS

PROVISION FOR COMPULSORY 3D PARTY LIABILITY MOTOR VEHICLE INSURANCE WITH A NO-FAULT PROVISION. LAW APPLICABLE TO ALL OWNERS OF MOTOR VEHICLES INCLUDING GOP OFFICIAL VEHICLES. REQUIRES PROOF OF INSURANCE FOR A REGISTRATION AND MAKES CRIMINAL PENALTY IF OWNER FAILS TO HAVE NECESSARY INSURANCE. OWNER OF GOP VEHICLES IS DEFINED AS THE HEAD OF THE AGENCY OR DEPARTMENT CONCERNED.

2. OFFICE OF INSURANCE COMMISSIONER, HAS VERIFIED THAT EVEN OFFICIAL VEHICLES OPERATED BY THE VARIOUS AGENCIES OF THE PHILIPPINE GOVERNMENT WILL BE REQUIRED TO HAVE COMPULSORY NO-FAULT INSURANCE. APPARENTLY, THEY WILL OBTAIN THE NECESSARY INSURANCE FROM GOVERNMENT SERVICES INSURANCE SYSTEM (GSIS), ANOTHER GOVERNMENT AGENCY RESPONSIBLE TO ADMINISTERING SOCIAL SECURITY AND OTHER SIMILAR PROGRAMS.

3. REQUIREMENT FOR INSURANCE IS EFFECTIVE IMMEDIATELY. OWNER MUST PRESENT INSURANCE CERTIFICATE BEFORE REGISTRATION CAN BE ACCOMPLISHED, WHILE OWNERS OF PREVIOUSLY REGISTERED VEHICLES MUST PRESENT INSURANCE CERTIFICATE UPON RE-REGISTRATION IN JANUARY 1976. WHILE PRIVATE INSURANCE COMPANIES ARE REQUIRED TO WRITE COMPULSORY NO-FAULT INSURANCE, ALL PREMIUMS WILL BE PAID TO AND DISPENSED BY GOVERNMENT WITH INSURANCE COMPANY OBTAINING 7-1/2 PERCENT COMMISSION FOR ADMINISTRATIVE EXPENSES. COST OF COMPULSORY 3D PARTY LIABILITY NO-FAULT VARIES WITH WEIGHT OF VEHICLE FROM 154 PESOS TO 248 PESOS (APPROX. \$22 TO \$35 PER YEAR.

4. MOST US OFFICIAL GOVERNMENT VEHICLES REGISTERED BY EMB ARE ALREADY INSURED PURSUANT TO POLICY DECISION OF AMB. BYROADE IN 1970 UNDER AUTHORITY OF 6 FAM 236.4-3B. WHILE CITED FAM PROVISION ONLY TECHNICALLY APPLIES TO EMB/USIS/AID VEHICLES, MOST OTHER USG AGENCIES ATTACHED TO EMB HAVE SECURED COMMERCIAL INSURANCE. AUTHORITY OF PARA A OF 6 FAM 236.4-3 WOULD ALSO AUTHORIZE SECURING OF COMPULSORY INSURANCE FOR EMB/USIS/AID VEHICLES. IT IS ASSUMED THAT MAJORITY OF OTHER USG AGENCIES ATTACHED TO EMB CAN ALSO EXTEND COVERAGE FOR NO-FAULT PROVISION. UNCLASSIFIED

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HOWEVER, VA, JUSMAG AND DAO VEHICLES REGISTERED BY EMB ARE NOT INSURED. ALSO, ALL VEHICLES OWNED AND OPERATED BY US NAVY AND AIR FORCE AT OUR MILITARY BASES ARE NOT INSURED.

5. WHILE EMB WILL EXPLORE THE ISSUE OF COMPULSORY NO-FAULT INSURANCE FOR OFFICIAL USG VEHICLES WITH APPROPRIATE GOP AGENCIES, IT WOULD BE HELPFUL TO KNOW WHETHER

THIS PROBLEM HAS BEEN ADDRESSED IN OTHER COUNTRIES AND, IF SO, HOW IT WAS RESOLVED AND IMPLEMENTED. EMB NOTES THAT IN 1970 SPANISH SOFA (ART. XXXI OF IMPLEMENTING AGREEMENT) IT SPECIFICALLY PROVIDES FOR COMPULSORY INSURANCE FOR OFFICIAL USG VEHICLES. WOULD APPRECIATE DETAILS ON HOW THIS PROVISION HAS BEEN ACTUALLY IMPLEMENTED.

6. THE FOLLOWING ARE THE RELEVANT PROVISIONS OF PHIL INSURANCE CODE: (A) QUOTE SEC. 374 - IT SHALL BE UNLAWFUL FOR ANY LAND TRANSPORTATION OPERATOR OR OWNER OF A MOTOR VEHICLE, TO OPERATE THE SAME IN THE PUBLIC HIGHWAYS UNLESS THERE IS IN FORCE IN RELATION THERETO A POLICY OF INSURANCE OR GUARANTEE IN CASH OR SURETY BOND ISSUED IN ACCORDANCE WITH THE PROVISIONS OF THIS CHAPTER. UNQUOTE.

(B) QUOTE SEC. 375 - THE COMMISSIONER SHALL FURNISH THE LAND TRANSPORTATION COMMISSIONER WITH A LIST OF INSURANCE COMPANIES AUTHORIZED TO ISSUE THE POLICY OF INSURANCE REQUIRED BY THIS CHAPTER. UNQUOTE (C) QUOTE SEC. 377 - EVERY LAND TRANSPORTATION OPERATOR AND EVERY OWNER OF A MOTOR VEHICLE SHALL, BEFORE APPLYING FOR THE REGISTRATION OR RENEWAL OF REGISTRATION OF ANY MOTOR VEHICLE, SECURE AN INSURANCE POLICY ISSUED BY ANY INSURANCE COMPANY AUTHORIZED BY THE COMMISSIONER. UNQUOTE (D) QUOTE SEC. 378 - ANY CLAIM FOR DEATH OR INJURY TO ANY PASSENGER OR THIRD PARTY PURSUANT TO THE PROVISIONS OF THIS CHAPTER SHALL BE PAID WITHOUT THE NECESSITY OF PROVING FAULT OR NEGLIGENCE OF ANY KIND; UNQUOTE.

(E) QUOTE. SEC. 388 - ANY LAND TRANSPORTATION OPERATOR OR OWNER OF MOTOR VEHICLE OR ANY OTHER PERSON VIOLATING ANY OF THE PROVISIONS OF THE PRECEDING SECTIONS SHALL BE PUNISHED BY A FINE OF NOT LESS THAN FIVE HUNDRED PESOS BUT NOT MORE THAN ONE THOUSAND PESOS AND/OR IMPRISONMENT FOR NOT MORE THAN SIX MONTHS. UNQUOTE.

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7. REFERENCE IS MADE TO ART. XXIII, MILITARY BASES AGREEMENT OF 1947, WHICH CONTAINS CLAIM PROVISION FOR DAMAGES CAUSED BY US MILITARY AND ITS PERSONNEL. EMB UNDERSTANDS THAT US LAW IMPLEMENTING ABOVE ARTICLE (10 USC 2733 AND 2734) HAS NO REQUIREMENT TO PROVE FAULT. THEREFORE, IN DISCUSSION WITH GOP AUTHORITIES CONCERNING MBA OFFICIAL VEHICLES, IT MAY BE POSSIBLE TO STATE THAT USG MILITARY CLAIMS PROCEDURE CAN BE UTILIZED TO SATISFY NO-FAULT PROVISION OF PHIL LAW. REQUEST COMMENTS. ALSO APPRECIATE IF SAME POSITION CAN BE ADVANCED IN RELATION TO VA OFFICIAL VEHICLES UNDER THEIR CLAIMS AUTHORITY.

8. POSITION COULD ALSO BE TAKEN THAT LAW SIMPLY DOES NOT APPLY TO USG OFFICIAL VEHICLES DUE TO PROVISION

OF MBA AND PERHAPS CUSTOMARY INTERNATIONAL PRACTICES
FOR VEHICLES OF VA AND MILITARY AGENCIES ATTACHED TO
AND REGISTERED BY THE EMB; HOWEVER, WITH GOP REQUIRING
INSURANCE FOR OWN OFFICIAL VEHICLES, THIS POSITION MAY NOT
BE POLITICALLY VIABLE, PRACTICAL, OR IN BEST INTEREST
OF USG. REQUEST COMMENTS.

9. DEPENDING ON ADVICE RECEIVED FROM VARIOUS ADDRESSEES,
EMB WILL THEN EXPLORE MATTER FURTHER WITH GOP AGENCIES.

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Message Attributes

Automatic Decaptioning: X
Capture Date: 01 JAN 1994
Channel Indicators: n/a
Current Classification: UNCLASSIFIED
Concepts: LAW, INSURANCE, AUTOMOBILES
Control Number: n/a
Copy: SINGLE
Draft Date: 17 OCT 1975
Decaption Date: 01 JAN 1960
Decaption Note:
Disposition Action: n/a
Disposition Approved on Date:
Disposition Authority: n/a
Disposition Case Number: n/a
Disposition Comment:
Disposition Date: 01 JAN 1960
Disposition Event:
Disposition History: n/a
Disposition Reason:
Disposition Remarks:
Document Number: 1975MANILA14708
Document Source: CORE
Document Unique ID: 00
Drafter: n/a
Enclosure: n/a
Executive Order: N/A
Errors: N/A
Film Number: D750361-0067
From: MANILA
Handling Restrictions: n/a
Image Path:
ISecure: 1
Legacy Key: link1975/newtext/t19751043/aaaabmep.tel
Line Count: 180
Locator: TEXT ON-LINE, ON MICROFILM
Office: ACTION L
Original Classification: UNCLASSIFIED
Original Handling Restrictions: n/a
Original Previous Classification: n/a
Original Previous Handling Restrictions: n/a
Page Count: 4
Previous Channel Indicators: n/a
Previous Classification: n/a
Previous Handling Restrictions: n/a
Reference: n/a
Review Action: RELEASED, APPROVED
Review Authority: buchant0
Review Comment: n/a
Review Content Flags:
Review Date: 19 NOV 2003
Review Event:
Review Exemptions: n/a
Review History: RELEASED <19 NOV 2003 by ThomasVJ>; APPROVED <12 JAN 2004 by buchant0>
Review Markings:

Margaret P. Grafeld
Declassified/Released
US Department of State
EO Systematic Review
06 JUL 2006

Review Media Identifier:
Review Referrals: n/a
Review Release Date: n/a
Review Release Event: n/a
Review Transfer Date:
Review Withdrawn Fields: n/a
Secure: OPEN
Status: NATIVE
Subject: COMPULSORY NO-FAULT MOTOR VEHICLE INSURANCE AND USG VEHICLES IN PHILIPPINES
TAGS: PGOV, RP
To: STATE
Type: TE
Markings: Margaret P. Grafeld Declassified/Released US Department of State EO Systematic Review 06 JUL 2006